Supreme Court, U.S.
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No. 88-2035

In The

Supreme Court of the United States

October Term, 1989

ADAMS FRUIT COMPANY, INC.,

Petitioner,

vs.

RAMSFORD BARRETT, et al.,

Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

JOINT APPENDIX

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAMSFORD BARRETT, et al.,

Plaintiffs,

v. Case No.: 86-1301-CIV-T-17(B)

ADAMS FRUIT COMPANY, INC.,

Defendant.

RELEVANT DOCKET ENTRIES

DATE	*NR*	*ENTRY*
9/12/86	1	COMPLAINT – Other labor litigation.
11/6/86	6	NOTICE of Filing Affidavit in Support of Worker's Compensation Immunity with attachments by Defendant.
11/18/86	13	ANSWER and Defenses by Defendant.
6/30/87	24	MOTION for Summary Judgment by Defendant.
10/29/87	37	ORDERED that Defendant's Motion for Partial Summary Judgment as to liability for actual or statutory damages under the motor vehicle provisions of the M.S.A.W.P.A. is granted.
1/14/88	47	JOINT STIPULATION for Dismissal by both parties and ORDER of Dismissal with prejudice incorporated therein. GRANTED.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAMSFORD BARRETT, DAVID SAPP
EDWARD TYRELL, DARYL HAMILTON
GARFIELD HILL, JR., ANTHONY GILL,
LYNVAL ALDRIDGE, SEMORE HAYLES,
AUDLEY KIRLEW, and WINSTON WARNER,

Plaintiffs,

v. Case No.: 86-1301-Civ-T-17

ADAMS FRUIT COMPANY, INC.,
a Florida Corporation,

Defendant.
_____/

COMPLAINT

I. *PRELIMINARY STATEMENT*

1. The Plaintiffs are migrant and seasonal farmworkers who harvested oranges in central Florida in early 1985 for the Defendant corporation. On the morning of May 8, 1985, the Plaintiffs were being transported to work in a van owned by the defendant when the left rear tire of the van blew out. The blow out caused the driver to lose control of the van, which in turn caused the vehicle to leave the highway, overturn, and wreck. Many of the Plaintiffs are permanently injured as a result of the accident. Most are no longer able to work. The accident occurred because the Defendant failed to ensure that the van conformed to applicable safety standards under the Migrant and Seasonal Agricultural Worker Protection Act, and its implementing regulations. Plaintiffs' injuries were caused, in part, by the fact that the van, which has a twelve-person capacity, was overloaded and carrying

nineteen persons at the time of the accident. Moreover, there were no seat belts installed in the van which would have protected Plaintiffs when the vehicle overturned and crashed.

The Defendant's failure to ensure that the vehicle in which the Plaintiffs were transported was safe and that Plaintiffs were transported in a safe manner violates the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. §1801, *et seq.* (hereinafter "M.S.A.W.P.A.") and the regulations promulgated thereunder. In addition to the motor vehicle safety provisions, the Defendant violated numerous other provisions of the M.S.A.W.P.A., for all of which the Plaintiffs seek declaratory and injunctive relief and damages.

II. *JURISDICTION*

2. Jurisdiction is conferred upon this court by 28 U.S.C. §1337, which grants jurisdiction over actions arising under statutes regulating commerce, 28 U.S.C. §1331, which grants federal question jurisdiction, and 29 U.S.C. §1854, which authorizes suits brought under the M.S.A.W.P.A. The court is authorized by 28 U.S.C. §2201 and 28 U.S.C. §2202 to award Plaintiffs the declaratory and injunctive relief they seek.

III. *PARTIES*

3. Plaintiffs Ramsford Barrett and Semore Hayles were, at all times pertinent to this action, migrant farmworkers and residents of Winter Haven, Polk County, Florida.

4. Plaintiffs David Sapp, Edward Tyrell, Garfield Hill, Jr., Audley Kirlew, Daryl Hamilton, Winston Warner, Anthony Gill and Lynval Aldridge were, at all times pertinent to this action, seasonal farmworkers and residents of Winter Haven, Polk County, Florida.

5. The Defendant, Adams Fruit Company, Inc. is an "agricultural employer", as that term is defined in 29 U.S.C. §1802(2) of the M.S.A.W.P.A., and a Florida corporation engaged in the production of goods for commerce. The Defendant's principal place of business is in Winter Haven, Florida.

IV. *FACTS*

6. The Plaintiffs are all migrant or seasonal farmworkers who have performed agricultural labor for the Defendant corporation at various times over the past ten years. Some of the Plaintiffs have worked for the Defendant on and off for several years. Others were first employed by the Defendant in early 1985. In April and May of 1985 the Plaintiffs were harvesting oranges for the Defendant corporation in and around central Florida.

7. At no time when the Plaintiffs were recruited for employment by the Defendant did the Defendant provide Plaintiffs with any written disclosures of the terms and conditions of employment.

8. At no time while the Plaintiffs were employed by the Defendant did the Defendant provide Plaintiffs with itemized written statements with their pay containing all the information that is required by law to be contained on those statements.

9. At no time while the Plaintiffs were employed by the Defendant did the Defendant post in a conspicuous place, a poster setting forth the workers' rights under the M.S.A.W.P.A.

10. As part of the Defendant's working arrangement with Plaintiffs during the winter and spring of 1985, the Defendant agreed to provide Plaintiffs with transportation from Winter Haven, Florida, to the worksite each day and back to Winter Haven from the worksite at the end of each day. Implicit in the Defendant's working arrangement with Plaintiffs was that the transportation provided would be safe, that the vehicles in which Plaintiffs were transported would conform to the applicable safety regulations, and that Plaintiffs would be transported in a safe manner.

11. On May 8, 1985, at approximately 7:00 a.m. a 1978 Dodge van owned by the Defendant and operated by one of its employees was transporting Plaintiffs and nine other workers from Winter Haven to Arcadia, Florida, where the workers were to harvest citrus for the Defendant.

12. Upon information and belief one or more of the tires on the van was defective and lacked adequate capacity to support the vehicle's weight.

13. The total number of persons in the van exceeded its seating capacity.

14. A seat was not provided for each passenger in the van.

15. The van was overloaded or the load was improperly distributed to the point that the van was prevented from being operated safely.

16. The van was carrying two large water storage containers which had been placed behind the rear seat of the van, between the seat and the rear door.

17. While the van was travelling south on U.S. Highway 17, its left rear tire blew out, causing the driver to lose control of the vehicle, and the vehicle to overturn and wreck.

18. The seats in the van were not equipped with seat belts. As a result, one or more of the occupants of the van were thrown from the van during the accident. Others were bounced around inside the vehicle.

19. During the accident one or both of the water storage containers hit the rear door and forced it open. As a result, Plaintiff Audley Kirlew was thrown from the van, through the rear door, into a ditch.

20. As a result of the accident, Plaintiffs have suffered temporary and permanent physical injuries, pain and suffering, loss of wages, loss of earning capacity, and have incurred expenses for medical attention and treatment and hospitalization.

21. Defendant, at all times relevant to this action, acted intentionally.

V. *CLAIM*

21. This claim arises under the M.S.A.W.P.A., 29 U.S.C. §1801, *et seq.*, and the regulations promulgated thereunder, found at 29 C.F.R. §500, *et seq.*

22. The Defendant, Adams Fruit Company, Inc., intentionally violated the M.S.A.W.P.A. and its implementing regulations in the following ways:

a. by violating without justification the terms of a working arrangement made with migrant or seasonal farmworkers. 29 U.S.C. §1822(c) and 29 U.S.C. §1832(c)

b. by transporting Plaintiffs or causing Plaintiffs to be transported in a motor vehicle that contained a total number of passengers in excess of the vehicle's seating capacity. 29 U.S.C. §1841(b)(1)(A). 29 C.F.R. §500.105(b)(2)(vii)(E)

c. by transporting Plaintiffs or causing Plaintiffs to be transported in a motor vehicle with one or more tires which were defective and inadequate to support the vehicle's gross weight. 29 U.S.C. §1841(b)(1)(A). 29 C.F.R. §500.105(b)(3)(v)

d. by transporting Plaintiffs or causing Plaintiffs to be transported in a motor vehicle in which a seat was not provided for each passenger. 29 U.S.C. §1841(b)(1)(A). 29 C.F.R. §500.105 (b)(3)(vi)(D)

e. by transporting Plaintiffs or causing Plaintiffs to be transported in a motor vehicle which was overloaded and in which the load was so improperly distributed as to prevent the vehicle's safe operation. 29 U.S.C. §1841(b)(1)(A); 29 C.F.R. §500.105(b)(2)(vii)(A)

f. by transporting Plaintiffs or causing Plaintiffs to be transported in a motor vehicle which

carried property that was stowed in an unsafe manner. 29 U.S.C. §1841(b)(1)(A); 29 C.F.R. §500.105 (b)(2)(vii)(D)

g. by recruiting Plaintiffs Ramsford Barrett and Semore Hayles without providing them with written disclosures of the following information:

1. the place of employment
2. the wage rates to be paid
3. the crops and activities on which they were to be employed
4. the period of employment
5. the transportation, housing, and other employee benefits to be provided, if any, and the costs to be charged for each.

28 U.S.C. §1821(a).

h. by failing to post in a conspicuous place at the place of employment, a poster setting forth the rights and protections afforded migrant and seasonal farmworkers under the M.S.A.W.P.A. 28 U.S.C. §1821(b) and 28 U.S.C. §1831(b)

i. by failing to provide the Plaintiffs with itemized written statements for each pay period, containing the following information:

1. the basis upon which the wages are paid
2. the number of piecework units earned
3. the number of hours worked
4. the total pay period earnings
5. the specific sums withheld and the purpose of the deductions
6. the net pay.

29 U.S.C. §1821(d)(2) and 29 U.S.C. §1831(c)(2).

23. As a result of the aforementioned violations Plaintiffs have suffered damages.

VI. *PRAYER FOR RELIEF*

WHEREFORE, Plaintiffs respectfully request that this court:

a. assume jurisdiction of the case.

b. enter a declaratory judgment in Plaintiffs' favor that the Defendant has intentionally violated the M.S.A.W.P.A., as alleged.

c. enter an injunction enjoining the Defendant from violating the M.S.A.W.P.A. in the future, specifically the transportation safety provisions of the M.S.A.W.P.A. and its implementing regulations and ordering Defendants to comply in the future with all the provisions of the M.S.A.W.P.A..

d. award Plaintiffs damages equal to the amount of actual damages they suffered as a result of Defendant's violations of the M.S.A.W.P.A. or statutory damages of $500 per Plaintiff per violation of the Act and its implementing regulations, whichever is greater.

e. award Plaintiffs the costs of this action

f. award Plaintiffs such other relief as the court deems just and proper.

RESPECTFULLY SUBMITTED this 12th day of September, 1986.

FLORIDA RURAL LEGAL
SERVICES, INC.
305 North Jackson Avenue
P. O. Drawer 1499
Bartow, Florida 33830
Telephone: (813) 534-1781
By: /s/ Tillie Lacayo
TILLIE LACAYO

TL:av

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAMSFORD BARRETT, et al., CASE NO.86-1301-Civ-T-17(B)

Plaintiffs,

vs.

ADAMS FRUIT COMPANY, INC., etc.,

Defendant

NOTICE OF FILING AFFIDAVIT IN SUPPORT OF WORKER'S COMPENSATION IMMUNITY

COMES NOW the Defendant, ADAMS FRUIT COMPANY, INC., by and through its undersigned attorneys, and files the attached Affidavit of Earl M. Jefts along with copies of computer printout sheets showing worker's compensation benefits previously provided to the plaintiffs in this cause.

FOWLER,WHITE,GILLEN,BOGGS,VILLAREAL,
& BANKER P.A.
Post Office Box 1438
Tampa, Florida 33601
Attorneys for defendant
(813)228-7411

By: _____
ROBERT E. BANKER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing pleading has been furnished by mail this 6th day of November, 1986 to:

TILLIE LACAYO, ESQUIRE
Post Office Drawer 1499
Bartow, Florida 33830

Attorney for plaintiffs

Attorney

COMES NOW, EARLE M. JEFTS, and after first being duly sworn, deposes and says:

1. My name is Earle M. Jefts, and I am the workers compensation claim unit manager for Wausau Insurance Companies in the Orlando, Florida claim office.

2. That on May 8, 1985 Wausau Underwriters Insurance Company provided workers compensation coverage for Adams Fruit Company, Inc.

3. Attached hereto are computer printout sheets showing benefits that were paid to the plaintiffs in this case, by Wausau Insurance Companies, pursuant to the workers compensation coverage.

Signed /s/ Earle M. Jefts
Earle M. Jefts

Sworn to and Subscribed before me this 31 day of October, 1986

/s/ Carol I. Boyd
Notary Public

Seal

My Commission expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES MAY 20, 1987
BONDED THRU GENERAL INSURANCE UND.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAMSFORD BARRETT, et al.,

Plaintiffs,

vs. CASE NO.: 86-1301-CIV-T-17(B)

ADAMS FRUIT COMPANY, INC., etc.,

Defendant.

ANSWER AND DEFENSES

COMES NOW the Defendant, ADAMS FRUIT COMPANY, INC., by and through its undersigned attorneys, and for its Answer and Defenses to the plaintiffs' Complaint says:

FIRST DEFENSE

For its First Defense and answering the numbered paragraphs of the Complaint, this Defendant says:

I. PRELIMINARY STATEMENT

1. This defendant admits that the plaintiffs were employees and that an accident occurred on May 8, 1985 while they were riding in a van. All other allegations are denied.

II. JURISDICTION

2. Denied.

III. PARTIES

3. Without knowledge and therefore denied.

4. Without knowledge and therefore denied.

5. Admitted that this Defendant's principal place of business is in Winter Haven, Florida. All other allegations are denied.

IV. FACTS

6. Admitted that the plaintiffs were employees at least to the extent that worker's compensation benefits were provided. All other allegations are denied.

7. Denied.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

V. CLAIM

21. Denied.

22. Denied, including each sub-paragraph thereof.

23. Denied.

VI. PRAYER FOR RELIEF

(a) Denied that the Court should assume jurisdiction of this cause.

(b) Denied.

(c) Denied.

(d) Denied.

(e) Denied.

(f) Denied.

SECOND DEFENSE

For its Second Defense this Defendant states that it is not guilty.

THIRD DEFENSE

For its Third Defense this Defendant states that at all times material hereto the plaintiffs' were statutory employees of the defendant and that the defendant has

heretofore both secured and provided all plaintiffs with workers compensation benefits pursuant to the Florida Worker's Compensation Law and that therefore this Defendant is immune from suit.

FOURTH DEFENSE

For its Fourth Defense this Defendant states that the plaintiffs have heretofore elected to avail themselves of worker's compensation benefits provided by this remedy and are barred from any recovery herein.

FIFTH DEFENSE

For its Fifth Defense this Defendant states that at the time and place alleged the plaintiffs were themselves negligent and their negligence either caused or contributed to the happening of the accident and their injuries, and that to the extent that their negligence did so contribute, any recovery by them should be proportionately reduced.

SIXTH DEFENSE

For its Sixth Defense this Defendant states that at the time and place alleged the plaintiffs did assume the risk of their conduct and that to the extent that they did assume such risk, any recovery by them is either barred or should be proportionately reduced.

FOWLER, WHITE, GILLEN, BOGGS, VILLAREAL, & BANKER P.A.
Post Office Box 1438
Tampa, Florida 33601
Attorneys for defendant
(813)228-7411

BY:_____
ROBERT E. BANKER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing pleading has been furnished by mail this 18th day of November, 1986 to:

TILLIE LACAYO, ESQUIRE
Post Office Drawer 1499
Bartow, Florida 33830
Attorney for Plaintiffs

_____
Attorney

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAMSFORD BARRETT, DAVID SAPP, EDWARD TRYELL, DARYL HAMILTON GARFIELD HILL, JR., ANTHONY GILL, LYNVAL ALDRIDGE, SEMORE HAYLES, AUDLEY KIRLEW AND WINSTON WARNER,

Plaintiffs,

vs. Case No.: 86-1301-CIV-T-17(B)

ADAMS FRUIT COMPANY, INC., a Florida corporation,

Defendant.
_____/

MOTION FOR SUMMARY JUDGMENT

COMES NOW the Defendant, Adams Fruit Company, Inc. by and through its undersigned attorneys and moves this Honorable Motion for Summary Judgment upon the grounds that the exclusive remedy provisions of Florida's Workers' Compensation Statute, Section 440.11 constitute a complete bar to the claims for damages filed by the Plaintiffs herein. In the alternative, this Defendant requests that this Court enter an Order granting a Partial Summary Judgment for Defendant upon the grounds that the exclusive remedy provisions of the Florida Workers' Compensation Statute, Section 440.11 constitute a bar to the claim for any monetary damages filed by the Plaintiffs herein.

/s/ Bonita L. Kneeland for
ROBERT E. BANKER, ESQ.
FOWLER, WHITE, GILLEN, BOGGS,VILLAREAL AND BANKER, P.A.
501 E Kennedy Boulevard
Suite 1600
Post Office Box 1438
Tampa, Florida 33601
(813) 228-7411

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Nora Leto, Esq., Florida Rural Legal Services, Inc., 305 North Jackson Avenue, Post Office Drawer 1499, Bartow, Florida 33830 this 30th day of June, 1987, by U.S. Mail.

/s/ Bonita L. Kneeland for
ROBERT E. BANKER, ESQ.
FOWLER, WHITE, GILLEN, BOGGS,VILLAREAL AND BANKER, P.A.
501 E Kennedy Boulevard
Suite 1600
Post Office Box 1438
Tampa, Florida 33601
(813) 228-7411
Attorney for Defendant

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAMSFORD BARRETT, et al.,

Plaintiffs,

vs. CASE NO.: 86-1301-CIV-T-17(B)

ADAMS FRUIT COMPANY, INC.,

Defendant.

ORDER GRANTING PARTIAL SUMMARY JUDGMENT

A full reprint of this order is set out in the Adams Fruit Company, Inc. Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit and is located at Appendix B, p. 16a.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAMSFORD BARRETT,
DAVID SAPP, EDWARD
TRYELL, DARYL
HAMILTON GARFIELD
HILL, JR., ANTHONY
GILL, LYNVAL
ALDRIDGE, SEMORE
HAYLES, AUDLEY
KIRLEW AND
WINSTON WARNER,

Plaintiffs,

vs. Case No.: 86-1301-CIV-T-17(B)

ADAMS FRUIT COMPANY, INC.,
a Florida corporation,

Defendant.
_____/

JOINT STIPULATION FOR DISMISSAL

IT IS HEREBY STIPULATED by and between counsel for the respective parties in the above and foregoing cause that, same having been amicable settled, those causes of action remaining to be tried in this case, be dismissed with prejudice.

Dated this 13th day of Jan[illegible] 1988.

/s/ Nora Leto
Nora Leto, Esquire
Attorney for Plaintiffs
Florida Rural Legal Services
305 North Jackson Avenue
Post Office Drawer 1499
Bartow, Florida 33830
(813) 534-1781

/s/ Bonita L. Kneeland
Bonita L. Kneeland, Esquire
ROBERT E. BANKER, ESQ.
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501 E Kennedy Boulevard
Suite 1600
Post Office Box 1438
Tampa, Florida 33601
(813) 228-7411

ORDER OF DISMISSAL

STIPULATION for dismissal having been entered into by and between counsel for the parties hereto, and it appearing therefrom and to the satisfaction of the Court that the foregoing cause has been amicably settled by the parties thereto, it is therefore

ORDERED AND ADJUDGED that the above and foregoing causes of action which remain to be tried in this case be dismissed with prejudice.

DONE AND ORDERED in Chambers in Hillsborough County, Florida this 14th day of January, 1988.

/s/ Elizabeth A. Kovachevich
United States District Judge
Middle District of Florida

Copies Furnished to:
Bonita L. Kneeland, Esquire
Nora Leto, Esquire